

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
FIRST CIRCUIT  
C.A. NO. 05-11357-NMG  
FILED  
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OCT 21 2005 3:40

WILLIAM RESTUCCI (Plaintiff)  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

V,

DOUBLEDAY BOOK CLUB & EVERY PERSONS

(Defendant's)

MOTION FOR RELIEF FROM JUDGEMENT OR ORDER

PURSUANT TO RULE 60(b); AND TO RECONSIDER JUDGEMENT

The plaintiff in the above matter respectfully moves this Honorable Court for relief from judgement and that this Honorable Court reconsider his judgement and award the plaintiff the following;

1. Emergency injunctive relief
2. Five hundred thousand dollars compensatory and punitive damages and or extra legal relief as stated in the complaint and or any other or further relief that this Court may seem just and proper **for the following reasons;**

A. The defendants engaged in a pattern of unwelcome harrassment directed at the plaintiff William Restucci to force him to buy books he did not want or does not possess.

By shipping the plaintiff books without his consent or knowlege he is forced to pay over 6 dollars for each shipment back or buy the books. The plaintiff is a prisoner and has no money as stated in his request to waive fee's. Plaintiff further

states that on occasion he receives little money for which he intended to fulfill his contractual obligation.....

Now the defendant's are in motion of ruining the plaintiffs credit (see exhibit A) just before he is released from prison. Defendants actions damage the plaintiffs credit, damage plaintiffs right to rehabilitate himself and severely emotional distresses the plaintiff; ¶ Please see Baskin v. Parker 602 F.2d 1205 (5th Cir. 1979) where the **Baskin Court** recognized that "Emotions are intangible but they are none the less perceptible. The hurt done to feelings and reputation by invasion of Constitutional rights is no less real and no less compensable than the cost of repairing a broken window pane or a damaged lock. Wounded Psyche and soul are to be slaved by damages as such property that can be replaced at the local hardware store."

**B.** Violation of the due process clause of the Fourteenth Amendment presents a Federal question sufficient to invoke jurisdiction under 28 U.S.C.A. §1331 Armstead v. Pingree, (1986 M d Fla) 629 F Supp 273.

Even if it were assumed that Federal jurisdiction of a claim for violation of 14th Amendment by municipality may be grounded on former 28 U.S.C.S. §1331 (a) and that a person requirement of 42 U.S.C.S. §1983 is not jurisdictional bar to Constitutional suit against municipality, private right of action directly under the Fourteenth Amendment will be implied only when necessary and appropriate to vindicate Constitutional

interest asserted -Curran v, Portland Superintending School Committee, (1977 DC Me) 435 F Supp, 1063, 15 BNA FEP Cas 644, 15 (CHEP D ¶7871, 46 ALR FED 304 (criticized in Bloom v, Crook, (1999 DC Me) 78 F Supp 2d 1, 84 BNA FEP Cas 1420, 77 CCH EPD ¶46331).

C, District Court had jurisdiction to adjudicate claim arising under the rehabilitation act of 1973.

D. The defendants committed constructive [legal] frauds were in their contract no clause existed that the plaintiff must notify defendants do not send books or they will be shipped automatically "Constructive [legal] fraud comprises all acts, omissions and concealments involving breach of equitable or legal duty, trust or confidence and resulting in damage to another".

E. In the plaintiffs complaint he prayed for "extra legal relief". By law this Honorable Court may make adjustments in damages because he is unrepresented. the plaintiff allows this Court to do so.

**Wherefore**, The plaintiff prays that this Honorable Court **GRANT** relief from judgement on 10/11.05 United States District Judge Nathaniel M, Gorton and reconsider judgement so that justice could be better served.

Date. *October 19 2005*

Respectfully submitted by

*William Restucci*  
William Restucci/ pro se

PO. Box 43, Norfolk,  
Massachusetts 02056

Camp Hill, Pa USA 17012

Your Account # was changed from 96713138442 to the number listed at right.  
All future correspondence should be made using this number----->

D5276206951

00026490

Account # 878184882  
Statement Date: 10/03/05

**Current Amount Due**

05/05/05	INNOCEN/NOPLAC-2	39.96
06/02/05	4TH JULY/COUNTON	39.96
06/13/05	LATE FEE CHARGE	4.00
07/27/05	MIRACLE/SUMMER-2	
	GREEN BLANK JRNL	36.96
<b>TOTAL NOW DUE</b>		<b>\$120.88</b>

|||||  
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----- WILLIAM RESTUCCI  
PO BOX 43  
NORFOLK MA 02056-0043  
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**FINAL NOTICE FROM Doubleday Book Club**

Dear WILLIAM RESTUCCI,

We have sent you several letters and have given you ample opportunity to respond.  
Therefore, your account is now in a "delinquent" status.

If your payment is not received promptly, we will have no other recourse but to forward your account to a professional Collection Agency and report your name and account status to The Credit Index (TCI). TCI is a national consumer reporting agency that prepares reports on consumers which are accessible by TCI's subscribers.

You may pay your bill online at [www.doubledaybookclub.com](http://www.doubledaybookclub.com)

Online payment is secure and saves you the cost of postage.

For your convenience, we have enclosed an envelope if you choose to send your payment in the mail.

We hope to receive your payment promptly.

*Frank Lombardi*

Frank Lombardi  
Manager, Credit & Collections

This is an attempt to collect a debt. Any information obtained will be used for that purpose.  
Please include your account number on your check or money order and in any correspondence to us.

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